

**SPECIAL ORDINANCE NO. 38, 2013**

**AMENDED APPLICATION FOR REZONING**  
**PETITION CITY OF TERRE HAUTE**

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Common Address of lots to be rezoned:

3004 S. 7<sup>th</sup> Street and 3010 S. 7<sup>th</sup> Street, Terre Haute, IN 47802

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Rezone From: R-1 Single Family Residence District

Rezone To: C-2 Community Commerce District

Proposed Use: Commercial Development  
(with Adjoining Commercial Real Estate)

Name of Owners: Andrew A. & Janet I. Pickering  
Address of Owners: 7400 State Road 246  
Pimento, IN 47866-9562

Phone Number of Owner (812) 299-2200

Attorney Representing Owner: Richard J. Shagley

Address of Attorney: Wright, Shagley & Lowery, P.C.  
PO Box 9849, Terre Haute, IN 47808

For Information Contact: ☐ Owner ☒ Attorney

Council Sponsor: \_\_\_\_\_

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**COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION**

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**AMENDED SPECIAL ORDINANCE NO. 38, 2013**

An Ordinance Amending Chapter 10, of the Terre Haute City Code, Zoning and Subdivision Regulations, as adopted by General Ordinance No. 10, 1999, as Amended, entitled "An Ordinance Adopting And Enacting A Code Of Ordinances For The City Of Terre Haute, Indiana; Establishing The Same; Providing For The Repeal Of Certain Ordinances Not Included Therein, Except As Herein Provided; Providing For The Manner Of Amending Such Code Of Ordinances; Providing A Penalty For Violations Thereof; Providing When This Ordinance Shall Become Effective And Officially Adopting The Terre Haute City Code, And Passing Ordinances Addressing Fees, Fines And Regulations".

BE IT ORDAINED by the Common Council of the City of Terre Haute, Indiana, as follows:

**SECTION I.** That Chapter 10, of the Terre Haute City Code, known and referred to as "The Comprehensive Zoning Ordinance for Terre Haute" of General Ordinance No. 10, 1999, effective, December 10, 1999, Section 10-121, thereof, District Maps, is hereby amended to read as follows:

Lot Number Four (4) in a plat of Davis Gardens, a subdivision of all that part of the west half of the north west  $\frac{1}{4}$  of Section 3 Township 11 North, Range 9 West lying south and west of the E. and I. Branch of the E. and T.H.R.R. containing 54.14 acres. Also that part of the east half of the north west  $\frac{1}{4}$  of Section 3 Township 11 North Range 9 West described as follows:

Beginning 655 feet north of a stone at the south east corner of the south west  $\frac{1}{4}$  of the north west  $\frac{1}{4}$  Section 3 Township 11 North Range 9 West thence east 50 and 2-10 feet thence with a curve to the right, the radius of which is 463 3-10 feet to an intersection with the right of way line of the E. and I. Branch of the Evansville and Terre Haute R.R. thence northwestwardly along the line of the right of way of said railroad to the intersection of the east line of the above described tract of land, thence south to the place of beginning, containing 971 thousandths of one acres (971-1000 acres), all located in Honey Creek Township, Vigo County, State of Indiana.

(Commonly known as 3010 S. 7th Street, Terre Haute, Indiana 47802.)

ALSO

Lot Number two (2) and three (3) in a plat of Davis Gardens a subdivision of all that part of the west half of the northwest  $\frac{1}{4}$  of section 3 township 11 north, range 9 west lying south and west of the E. and I. Branch of the E. and T.H.R.R. containing 54.14 acres.

Also that part of the east half of the north west ¼ of section 3 township 11 north range 9 west described as follows:

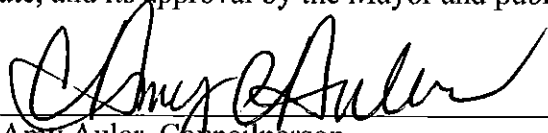
Beginning 655 feet north of a stone at the south east corner of the south west ¼ of the north west ¼ section 3 township 11 north range 9 west thence east 50 and 2-10 feet thence with a curve to the right, the radius of which is 463 3-10 feet to an intersection with the right of way line of the E. and I. Branch of the Evansville and Terre Haute R.R. thence northwestwardly along the line of the right of way of said railroad to the intersection of the east line of the above described tract of land, thence south to the place of beginning, containing 971 thousandths of one acre (971-1000 acres).

Commonly known as 3004 S. 7<sup>th</sup> Street, Terre Haute, Indiana 47802.

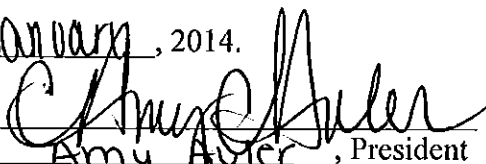
be and the same is, hereby established as a C-2 Community Commerce District, together with all rights and privileges that may inure to said real estate and the owners thereof by virtue of the law in such cases provided, subject to all limitations and restrictions imposed thereon by deed or otherwise.

SECTION II. WHEREAS, an emergency exists for the immediate taking effect of this Ordinance, the same shall be in full force and effect from and after its passage by the Common Council of the City of Terre Haute, and its approval by the Mayor and publication as by law provided.

Presented by Council Member,

  
Amy Auler, Councilperson

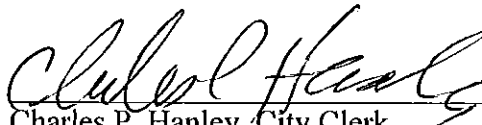
Passed in open Council this 16<sup>th</sup> day of January, 2014.

  
Amy Auler, President

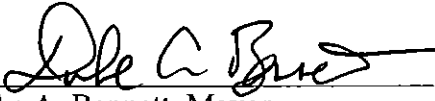
ATTEST:

  
Charles P. Hanley, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this 17<sup>th</sup> day of January, 2014.

  
Charles P. Hanley, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this 17<sup>th</sup> day of JANUARY, 2014.

  
Duke A. Bennett, Mayor

ATTEST:

  
Charles P. Hanley, City Clerk

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law.

Richard J. Shagley

This instrument prepared by Richard J. Shagley, Attorney-at-Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, Terre Haute, Indiana 47807.

**AMENDED PETITION TO REZONE REAL PROPERTY**

TO: THE PRESIDENT AND MEMBERS OF THE COMMON COUNCIL OF THE CITY OF TERRE HAUTE, INDIANA;

and THE PRESIDENT AND MEMBERS OF THE AREA PLANNING COMMISSION OF VIGO COUNTY, INDIANA.

LADIES and GENTLEMEN:

The undersigned, Janet I. Pickering, owner, respectfully submits this Petition to Rezone the following described real estate in the City of Terre Haute, Vigo County, State of Indiana, to-wit:

Lot Number Four (4) in a plat of Davis Gardens, a subdivision of all that part of the west half of the north west  $\frac{1}{4}$  of Section 3 Township 11 North, Range 9 West lying south and west of the E. and I. Branch of the E. and T.H.R.R. containing 54.14 acres. Also that part of the east half of the north west  $\frac{1}{4}$  of Section 3 Township 11 North Range 9 West described as follows:

Beginning 655 feet north of a stone at the south east corner of the south west  $\frac{1}{4}$  of the north west  $\frac{1}{4}$  Section 3 Township 11 North Range 9 West thence east 50 and 2-10 feet thence with a curve to the right, the radius of which is 463 3-10 feet to an intersection with the right of way line of the E. and I. Branch of the Evansville and Terre Haute R.R. thence northwestwardly along the line of the right of way of said railroad to the intersection of the east line of the above described tract of land, thence south to the place of beginning, containing 971 thousandths of one acres (971-1000 acres), all located in Honey Creek Township, Vigo County, State of Indiana.

(Commonly known as 3010 S. 7th Street, Terre Haute, Indiana 47802.)

The undersigned, Andrew A. Pickering, owner, respectfully submits this Petition to Rezone the following described real estate in the City of Terre Haute, Vigo County, State of Indiana, to-wit:

Lot Number two (2) and three (3) in a plat of Davis Gardens a subdivision of all that part of the west half of the northwest  $\frac{1}{4}$  of section 3 township 11 north, range 9 west lying south and west of the E. and I. Branch of the E. and T.H.R.R. containing 54.14 acres.

Also that part of the east half of the north west  $\frac{1}{4}$  of section 3 township 11 north range 9 west described as follows:

Beginning 655 feet north of a stone at the south east corner of the south west  $\frac{1}{4}$  of the north west  $\frac{1}{4}$  section 3 township 11 north range 9 west thence east 50 and 2-10 feet thence with a curve to the right, the radius of which is 463 3-10 feet to an intersection with the right of way line of the E. and I. Branch of the Evansville and Terre Haute R.R. thence northwestwardly along the line of the right of way of said railroad to the intersection of the east line of the above described tract of land, thence south to the place of beginning, containing 971 thousandths of one acre (971-1000 acres).

Commonly known as 3004 S. 7<sup>th</sup> Street, Terre Haute, Indiana 47802.

The Petitioners are informed and believe that in accordance with Chapter 10, known and referred to as "The Comprehensive Zoning Ordinance for Terre Haute", as amended, the above described real estate are now zoned as R-1 Single Family Residential District.

The Petitioners would propose to sell the real estate, with adjoining Pickering real estate, for commercial development.

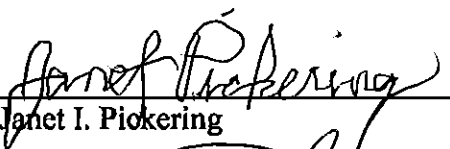
Your Petitioners would request that the real estate described herein shall be zoned as a C-2 Community Commerce District to allow for the use as proposed by Petitioners. Your Petitioners would allege that the C-2 Community Commerce District would not alter the general characteristics of this neighborhood, since the real estate is located in a commercial district, and is located on one of Terre Haute's major roadways.

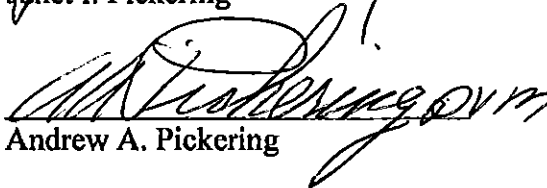
Your Petitioners would respectfully show the proposed change would not be detrimental to the public welfare or injurious to the property or improvements in the area.

WHEREFORE, your Petitioners respectfully request that the Area Planning Commission and the Common Council of the City of Terre Haute, Indiana, favorably consider the passage of a Special Ordinance amending the District Maps of Chapter 10, of the Terre Haute City Code entitled The Comprehensive Zoning Ordinance for Terre Haute, Section 10-121 District Maps and declaring the above-described real estate to be part of the C-2 Community Commerce District of the City of Terre Haute, Indiana, and is entitled to the rights and benefits that may accrue to the real estate and the owner thereof by virtue of the new designation subject to all limitations imposed by deed or otherwise.

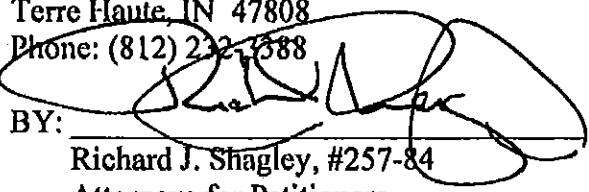
IN WITNESS WHEREOF, the undersigned Petitioners have executed this Petition to Rezone Real Property, this 14 day of December, 2013.

**PETITIONERS:**

  
Janet I. Pickering

  
Andrew A. Pickering

WRIGHT, SHAGLEY & LOWERY, P.C.  
500 Ohio Street  
PO Box 9849  
Terre Haute, IN 47808  
Phone: (812) 232-3888

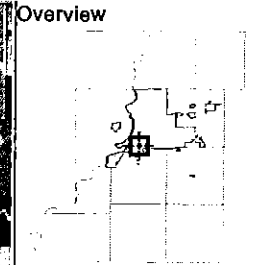
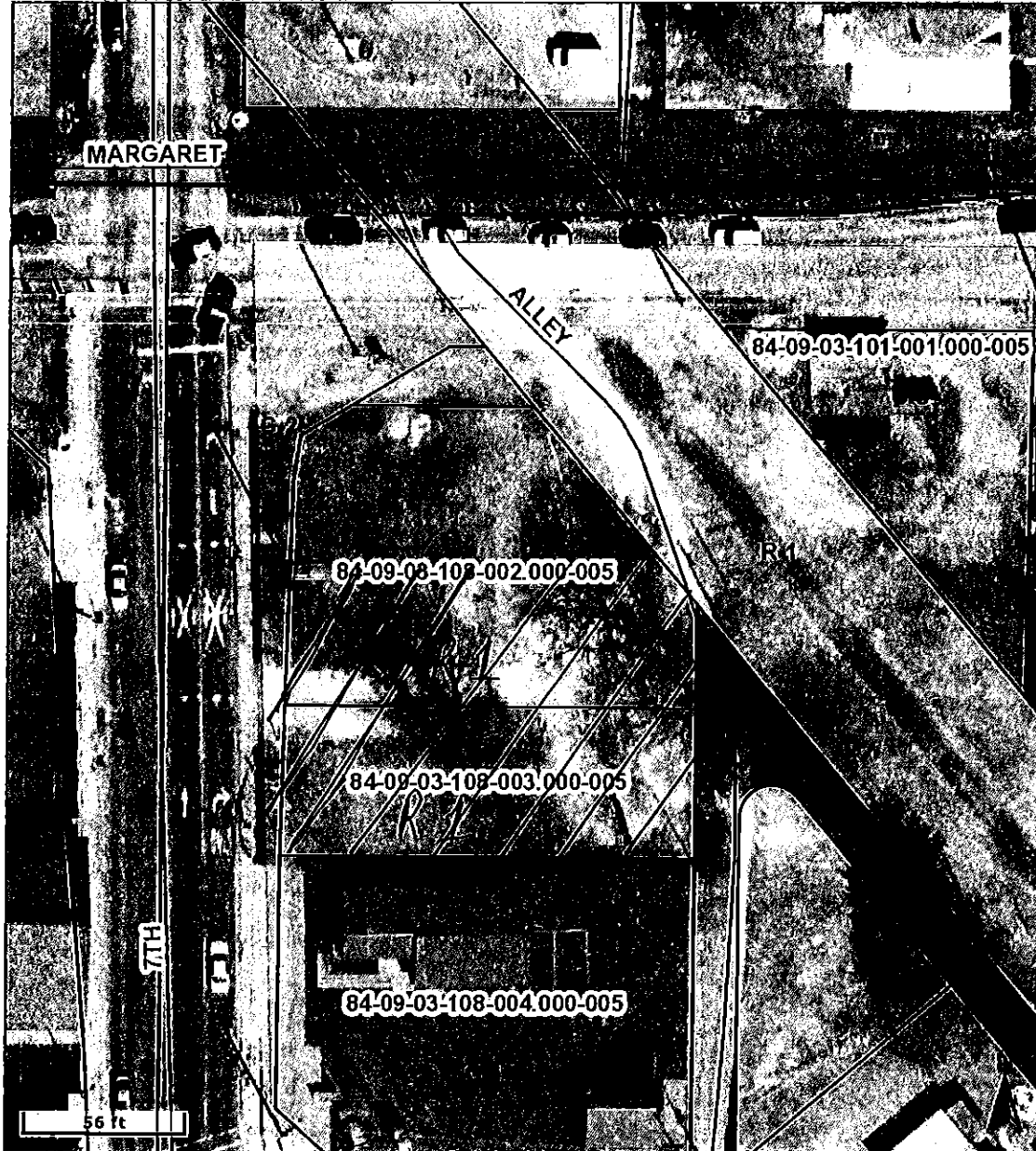
BY:   
Richard J. Shagley, #257-84  
Attorneys for Petitioners

# Amended Site Plan

Vigo County, IN / City of Terre Haute



Date Created: 12/3/2013



- Legend**
- ☐ Corporate Limits
  - ☐ Political Townships
  - ☐ Sections
  - ☐ Blocks
  - ☐ Parcels
  - ☐ Road Centerlines
  - ☒ Trees

**Current Zoning Classifications**

- ☐ A-1
- ☐ A-1MO
- ☐ A-1NR
- ☐ C-1
- ☐ C-1PD
- ☐ C-2
- ☐ C-2PD
- ☐ C-2SU
- ☐ C-3
- ☐ C-3NR
- ☐ C-3PD
- ☐ C-3SU
- ☐ C-4
- ☐ C-5
- ☐ C-6
- ☐ C-6PD
- ☐ C-6SU
- ☐ C-7
- ☐ C-7NR
- ☐ C-8
- ☐ C-8PD
- ☐ C-9
- ☐ C3PUD
- ☐ M-0
- ☐ M-1
- ☐ M-1PD
- ☐ M-2
- ☐ M-2NR
- ☐ M-2PD

Property Addresses: 3004 S. 7th Street Owners: Andrew & Janet Pickering  
3010 S, 7th Street 7400 SR 246  
Pimento, IN 47866

Parcel Nos. 84-09-03-108-002.000-005  
84-09-03-108-003.000-005

Special Ordinance No. 38, 2013  
R-1 to C-2

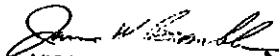
(NO PLAN FOR DEVELOPMENT)

DULY ENTERED FOR TAXATION  
Subject to final acceptance for transfer

RAYMOND WATTS  
Vigo County Recorder IN  
IN 2005007894 00  
05/12/2005 14:54:46 1 PGS  
Filing Fee: \$14.00

MAY 12 2005

EXEMPT FROM DISCLOSURE

  
VIGO COUNTY AUDITOR

QUIT CLAIM DEED  
THIS INDENTURE WITNESSETH:

That Andrew A. + Janet I. Pickering  
of \_\_\_\_\_ County, in the State of \_\_\_\_\_  
RELEASE AND QUIT CLAIM to Andrew A. Pickering

\_\_\_\_\_ of \_\_\_\_\_ County, in the State of \_\_\_\_\_  
for and in consideration of the sum of \_\_\_\_\_ Dollars,  
the receipt whereof is hereby acknowledged, the following described Real Estate in \_\_\_\_\_  
County in the State of Indiana, to-wit:

Lot Number two (2) and three (3) in a plat of Davis Gardens a subdivision of all that part  
of the west half of the northwest 1/4 of section 3 township 11 north, range 9 west lying  
south and west of the E. and I. Branch of the E. and T. H. R. R. containing 54.14 acres.

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thence northwestwardly along the line of the right of way of said railroad to the  
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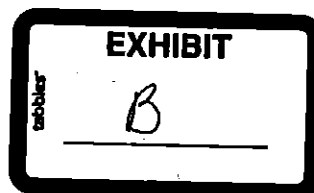
IN WITNESS WHEREOF, The said Andrew Pickering  
Janet Pickering  
in \_\_\_\_\_ hand \_\_\_\_\_ and seal \_\_\_\_\_, this 12 day of May 2005  
(Seal) \_\_\_\_\_ (Seal)  
(Seal) \_\_\_\_\_ (Seal)

STATE OF INDIANA, Vigo Co., A.D. 2005, personally appeared the within  
named Andrew Pickering  
Janet Pickering Grantor \_\_\_\_\_ in  
the above conveyance, and acknowledged the execution of the same to be ☒ voluntary  
act and deed.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official  
seal. Commission expires June 29 2011 Wendi Taylor  
Notary Public

Mail to: \_\_\_\_\_

This instrument prepared by: \_\_\_\_\_



STATE OF INDIANA       )  
                                  ) SS:  
COUNTY OF VIGO        )

**AFFIDAVIT**

Comes now, Andrew A. Pickering, being duly sworn upon his oath, deposes and says:

1. That Andrew A. Pickering is the fee simple owner of record of the following described real estate located in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

Lot Number two (2) and three (3) in a plat of Davis Gardens a subdivision of all that part of the west half of the northwest  $\frac{1}{4}$  of section 3 township 11 north, range 9 west lying south and west of the E. and I. Branch of the E. and T.H.R.R. containing 54.14 acres.

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Commonly known as 3004 S. 7<sup>th</sup> Street, Terre Haute, Indiana 47802.

2. That a copy of the Deed, recorded in the records of the Recorder's Office of Vigo County, Indiana, transferring fee simple title to Andrew A. Pickering is attached hereto and made a part hereof and marked as Exhibit B.

3. That Affiant makes this Affidavit for the sole purpose of affirming that Andrew A. Pickering is the owner of record of the above-described real estate for which a proposed change to the zoning map of the City of Terre Haute, Indiana, has been filed and to induce the Common Council of the City of Terre Haute, Indiana, to accept the Amended Petition to Rezone Real Property as filed by Andrew A. Pickering and Janet I. Pickering.


4. Further, Affiant saith not.

Dated at Terre Haute, Indiana this 7 day of December, 2013.

  
Andrew A. Pickering

STATE OF INDIANA )  
 ) SS:  
COUNTY OF VIGO )

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said County and State, this 4 day of December, 2013.

  
\_\_\_\_\_  
Mr. J. Brown, Notary Public

My Commission expires:

1-20-2018

My County of Residence:

Clay

This instrument prepared by Richard J. Shagley, Attorney at Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, Terre Haute, Indiana 47807.



**TERRE HAUTE**  
A CITY ABOVE

# Area Planning Department For Vigo County

159 Oak Street, Terre Haute, Indiana 47807

Telephone: (812) 462-3354

Fax: (812) 234-3248

Terre Haute • West Terre Haute • Riley • Seelyville

DATE: January 9, 2014

## REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO  
SPECIAL ORDINANCE NUMBER #38-13

CERTIFICATION DATE: January 8, 2014


TO: The Honorable Common Council of the City of Terre Haute

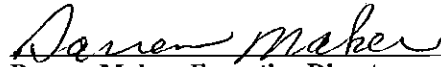
Dear Members,

The Vigo County Area Plan Commission offers you the following report and certification on Special Ordinance No. 38-13. This Ordinance is a rezoning of the property located at 3004 and 3010 South 7<sup>th</sup> Street. The Petitioner, Janie I. Pickering, Petitions the Plan Commission to rezone said real estate from zoning classification R-1 to C-2, Community Commerce District for commercial development. The Ordinance was published in the Tribune-Star Newspaper in accordance with IC 5-3-1 and Division XIII of the Comprehensive Zoning Ordinance. Further, this ordinance was posted by the City Building Inspection Department in accordance with IC 36-7-4-604(c).

The Area Plan Commission considered Special Ordinance No. 38-13 at a public meeting and hearing held Wednesday, January 8, 2014. Remonstrators were not present. At this meeting, a quorum was present throughout the meeting pursuant to IC 36-7-4-301, and the Area Plan Commission took official action on Special Ordinance No. 38-13 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 38-13 as required by IC 36-7-4-401(a)(7) and IC 36-7-4-605(c).

Therefore, Area Plan Commission's certified recommendation on Special Ordinance No. 38-13, was FAVORABLE AS AMENDED.

  
Fred L. Wilson, President

  
Darren Maher, Executive Director

Received this 9<sup>th</sup> day of January, 2014

## STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #38

Doc: # 78

Date: December 4<sup>th</sup>, 2013

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### APPLICATION INFORMATION

Petitioner: Andrew A. & Janet I. Pickering

Property Owner: Same-As-Above

Representative: Richard J. Shagley

Proposed Use: Commercial Development  
(with Adjoining Commercial Real Estate)

Proposed Zoning: C-2, Limited Community Commercial District

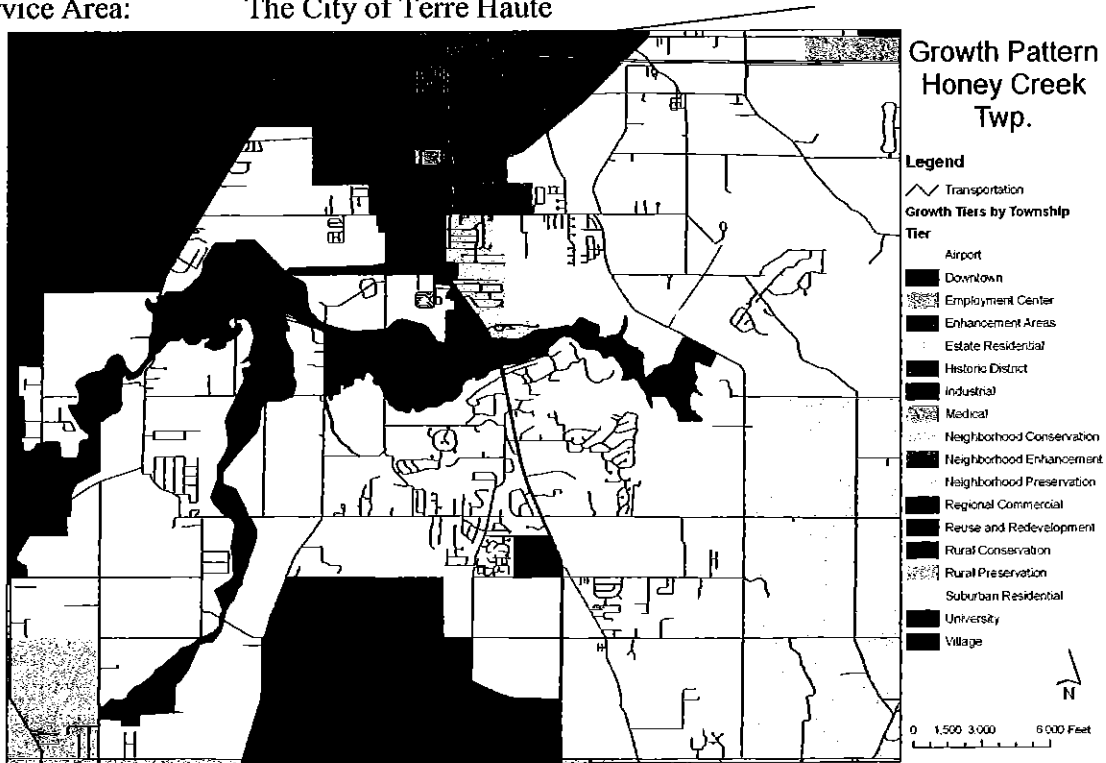
Current Zoning: R-1, Single-Family Residence District

Location: Northeast corner of the South 7<sup>th</sup> Street and East Margaret Avenue

Common Address: 3004 and 3010 South 7<sup>th</sup> Street, Terre Haute, IN 47802

### COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute



Guiding Policies: Enhancement Areas

## STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #38

Doc: # 78

Date: December 4<sup>th</sup>, 2013

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- Encourage infill development that is compatible with the land use mix and intensity of existing development.
- Support preservation and rehabilitation of historic properties.
- Incompatible and inconsistent uses with residential context of these neighborhoods should be eliminated.
- Encourage neighborhoods to develop a unique sense of place, but still be part of the larger city.

Available Services: Area is well served by utilities.

Soil Limitations: Not studied.

Street Access: South 7<sup>th</sup> Street is a Secondary Arterial Roadway, which provides for intra-community travel mobility and linkage from neighborhood regions to the primary and rural arterial network.

Dev. Priority: There is a high priority for new commercial development within this area as there already is a presence of commercial uses. Permitting a low intensity commercial use will buffer the adjacent residential component of this neighborhood from the intense regional commercial uses.

## ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – C-2, Community Commerce District  
**East** – R-1, Single Family Residence District, and  
C-3, Regional Commercial District  
**South** – C-1, Neighborhood Commerce District, and  
R-1, Single Family Residence District  
**West** – R-1, Single Family Residence District, and  
C-3, Regional Commercial District

Character of Area: The petition property is located on the eastern fringe of the I-70 and U.S. Highway 41 Regional Commercial Zone. This area is characterized with a mix of single family residential homes, and small to medium size strip business centers.

Contig. Uses & Zones: The contiguous zoning is C-2, Community Commerce District with commercial uses that are permitted.

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## ZONING REGULATIONS

**C-2 Purpose:** The Community Commerce Zone is designed for the residents of the nearby community consisting of more than one (1) of the neighborhoods in that section of the city, so as to permit a wider variety of both business uses and services. It is designed not for an abutting neighborhood, but for a relatively larger consumer population for both daily and occasional shopping. The development is characterized by a lack of “comparison shopping” and is limited to providing only one (1) store for each type of business.

**C-2 Uses:** Antique shops, Art galleries, but not including auction rooms, Banks and financial institutions, Bicycle sales, rental, and repair stores, Blue-printing and photos tatting establishments, Books and stationery stores, Camera and photographic supply stores, Candy and ice cream stores, Leather goods and luggage stores, Loan offices, Locksmith shops, Medical and dental clinics, Meeting halls, Millinery shops, Municipal or privately-owned recreation buildings or community-center, Musical instrument sales and repair, Newspaper distributors for home delivery and retail sale, Office supply stores, Offices, business and professional, Optometrists, Paint and wallpaper stores, Restaurants. Liquor may be served if incidental to the serving of food as the principal activity. (Gen. Ord. No. 2, 2007, As Amended, 2-8-07), Live entertainment. (Gen. Ord. No. 2, 2007, As Amended, 2-8-07)

**C-2 Standards:** Minimum Lot Size: 3,300 Sq. Ft.  
FAR 0.9 %  
Street Setback: 55 feet from centerline;  
Rear setback 11’;  
Interior setback of 5’ from the interior lot line;  
Parking Requirements will be determined through site-plan review

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## **FINDINGS and RECOMMENDATION**

**Staff Findings:** The proposed commercial development is in harmony with the comprehensive plan, and will meet all the development standards of the zoning ordinance. A lower commercial intensity at this location will function as a buffer between the Regional Commercial Uses and Zoning to the West and the Residential Uses to the east of this property.

The Thrive 2025 Comprehensive Plan has identified this area within the City of Terre Haute as an Enhancement Area. The development priority for commercial development within this area could be low to high intensity based on the local thoroughfare network. High to medium intensity commercial development and uses need to have direct access without traffic intrusion onto residential neighborhoods, and needs the appropriate buffering.

Buffered from adjacent residential uses by all of the following:

- Scale of building design
- Landscaping
- Loading

**Recommendation:** Staff has a Favorable Recommendation for a C-2, Community Commercial District.